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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,839	12/21/2001	Robert R. Reed	CS11387	4946
20280	7590	01/29/2004		
MOTOROLA INC 600 NORTH US HIGHWAY 45 LIBERTYVILLE, IL 60048-5343				
			EXAMINER LE, LANA N	
			ART UNIT 2685	PAPER NUMBER

DATE MAILED: 01/29/2004

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**MAILED**  
JAN 29 2004  
*Technology Center 2600*

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 11

Application Number: 10/036,839  
Filing Date: December 21, 2001  
Appellant(s): REED, ROBERT R.

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Roland Bowler II  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 10/30/03.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(3) *Status of Claims***

This appeal involves claims 10-12 and 18-21.

Claims 1-9 and 15-17 are allowed.

Claims 13-14 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**(4) *Status of Amendments After Final***

No amendment after final has been filed.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 10-11 and 18-21 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

6,115,620 Colonna et al 09-2000

Publication by Courtecuisse, Regis. "Transmission and Receiving Apparatus with Antenna" , translation published January 15, 1993, (Jan. 15, 1993), pp. 1-9.

**(10) New Prior Art**

No new prior art has been applied in this examiner's answer.

**(11) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 10-12, 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colonna et al (US 6,115,620) in view of Courtecuisse (FR 2,679,086).

Regarding claim 10, Colonna et al discloses a wireless communication handset, comprising: first and second rotatably coupled housing portions 204 and 202; the wireless communication handset in a standby mode when the first and second housing portions are rotated to a standby angular configuration, the wireless communication handset in a call mode when the first and second housing portions are rotated from the standby angular configuration to a call angular configuration (col 15, lines 4-22; col 5, lines 25-50), the wireless communication handset performing a first function when the first and second housing portions are rotated to a first function angular configuration between the standby and call angular configurations.

Colonna et al fails to further disclose: the first and second housing portions rotatable in corresponding first and second substantially parallel planes. Courtecuisse further disclose the first and second housing portions rotatable in corresponding first and second substantially parallel planes (fig. 3; page 4, lines 13-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the flipping housing element of Colonna et al with the rotating housing element of Courtecuisse in order to obtain flexibility in the device user's choice of circularizing, rotating, flipping or sliding one of the housing element around a pivot point at a range of available angles and therefore parallel or perpendicular planes based on the mobile equipment's design and model.

Regarding claim 11, Colonna et al further discloses the wireless communication

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handset of claim 10, the wireless communication handset performing a second active mode function when the first and second housing portions are rotated to a second angular configuration between the standby call angular configurations (col 10, lines 18-23).

Regarding claim 12, Colonna et al further discloses the wireless communication handset of claim 10, the first and second housing portions are at least partially overlapping in the standby angular configuration, the first and second housing portions are separated by approximately 180 degrees when the first and second housing portions are in the call angular configuration (col 4, lines 5-15).

Regarding claim 18, Colonna et al discloses a method in a communication handset 100 having a housing element 204 flipably coupled to a housing 202 (fig. 3), comprising:

transitioning the communication handset from a stand-by operating mode to an active operating mode by flipping the cover relative to the housing 202 from a standby mode position to a first active mode (private) position of fig. 2(col 3, line 60 - col 4, line 5; col 6, lines 35-44);

invoking a first function of the communication handset by flipping the cover to a position different than the active mode and standby mode positions (col 5, line 25-41; col 15, lines 4-22);

transitioning the communication handset to the stand-by mode by rotating the blade to the standby mode position from some other position (col 4, lines 15-28; col 6, lines 35-44; fig. 4).

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Colonna et al didn't further disclose a blade rotatably in a parallel plane relative to the housing. Courtecuisse further discloses a housing element 28 rotatable in a parallel plane (fig. 3; page 4, lines 13-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the flip cover of Colonna et al with the rotating housing element or any rotating blade/housing element of Courtecuisse in order to allow the user to switch mode functions by circularizing, rotating, flipping or sliding one of the housing element around a pivot point at a range of available angles and therefore parallel or perpendicular planes for more access to more functions instead of opening/closing the flip cover at a lower range of available angles.

Regarding claim 19, Colonna et al further discloses the method of Claim 18, invoking a second function of the communication handset by flipping the housing element 204 to a second position (col 10, lines 18-23) wherein Courtecuisse further discloses a rotating housing element 28 (fig. 2).

Regarding claim 20, Colonna et al further discloses the method of Claim 19, indicating the position of the housing element relative to the housing by providing a physical sensation when the blade/housing element 204 is in the respective positions (col 6, lines 30-33).

Regarding claim 21, Colonna et al discloses a wireless communication handset 100, comprising:  
first and second flipably coupled housing portions 202 and 204, the first and second housing portions flipable in corresponding first and second substantially 180 angle planes;

the wireless communication handset in a first operating mode when the first and second housing portions are moved to a first angular configuration (col 3, line 60 - col 4, line 5), the wireless communication handset in a second operating mode when the first and second housing portions are moved to a second angular configuration (col 5, line 25-41; col 15, lines 4-22), the wireless communication handset in a third operating mode when the first and second housing portions are rotated to a third angular configuration (col 6, lines 35-44).

Colonna et al didn't further disclose a first and second rotatably coupled housing portions in substantially parallel plane. Courtecuisse further discloses a first and second rotatably coupled housing portions in substantially parallel plane (fig. 3; page 4, lines 13-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the flip cover of Colonna et al with the rotating housing element or any rotating housing portions of Courtecuisse in order to allow the user to switch mode functions by various obvious modifications of the design of the mobile phone by circularizing, rotating, flipping or sliding one of the housing element around a pivot point at a range of available angles and therefore parallel or perpendicular planes based on the user's preference of the mobile's equipment design without affecting the mode switching principle of a mode-switching radio-phone of Colonna et al.

***Allowable Subject Matter***

2. Claims 13-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



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Regarding claim 13, Colonna et al and Courtecuisse et al further discloses the handset of Claim 10, wherein the cited prior art fails to further disclose:

a rotary encoder having a first encoder portion coupled to the first housing portion and a second encoder portion coupled to the second housing portion;

the rotary encoder having a standby mode electrical output when the first and second housing portions are in the standby angular configuration, the rotary encoder having a call mode electrical output when the first and second housing portions are in the call angular configuration, the rotary encoder having a first function electrical output when the first and second housing portions are in the first function angular configuration.

Regarding claim 14, Colonna et al further discloses the wireless communication device of claim 13, a processor 106, wherein the cited prior art fails to further disclose: the standby mode electrical output of the rotary encoder coupled to the processor when the first and second housing portions are in the standby angular configuration, the call mode electrical output of the rotary encoder coupled to the processor when the first and second housing portions are in the call angular configuration, the first function electrical output of the rotary encoder coupled to the processor when the first and second housing portions are in the first function angular configuration.

3. Claims 1-9, 15-17 are allowable over the cited prior art.

4. The following is an examiner's statement of reasons for allowance:

Regarding independent claim 1, Colonna et al (US 6,115,620) discloses a wireless communication handset 100 (fig. 3), comprising: a housing 202; a housing element 204 flipably coupled to the housing; a controller having a first active mode function output

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when the flip cover is in the first position (col 5, line 65 - col 6, line 2), the controller having a second active mode function output when the cover is in the second position (col 5, lines 25-40). Colonna et al fails to further disclose: a blade rotatable in a plane. Courtecuisse (FR 2,679,086) further discloses a housing element 28 rotatable in a plane (fig. 3; page 4, lines 13-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the flipping housing element of Colonna et al with the rotating housing element of Courtecuisse in order to obtain flexibility in the device user's choice of circularizing, rotating, flipping or sliding one of the housing element around a pivot point at a range of available angles and therefore parallel or perpendicular planes based on the mobile equipment's design and model. Colonna et al and Courtecuisse fails to further disclose: a rotary encoder having a first encoder portion coupled to the blade and a stationary encoder portion; the rotary encoder having a first active mode function when the blade is in the first position, the rotary encoder having second active mode function output when the blade is in the second position.

Regarding independent claim 15, Colonna et al discloses a wireless communication device operable in active and standby modes (col 3, lines 23-31), comprising:

a housing 202; a flipable member 204 flipably coupled to the housing 202;

the cover detection sensor 112 senses a first active mode function output when the flipable member is positioned in a first position relative to the housing and the wireless communication device is not in the standby mode (col 3, line 60 -col 4, line 28) the

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detection sensor 112 senses a second active mode function output when the flipable member is positioned in a second position relative to the housing and the wireless communication device is not in the standby mode (col 5, line 25 - col 6, line 2).

Colonna et al fails to further disclose: a rotatable member rotatably coupled to the housing. Courtecuisse further discloses a rotatable member rotatably coupled to the housing (fig. 3; page 4, lines 13-17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the flipping housing element of Colonna et al with the rotating housing element of Courtecuisse in order to obtain flexibility in the device user's choice of circularizing, rotating, flipping or sliding one of the housing element around a pivot point at a range of available angles and therefore parallel or perpendicular planes based on the mobile equipment's design and model.

However, the cited prior art fails to further disclose:

a rotary encoder having a first encoder portion coupled to the rotatable member and a stationary encoder portion; the rotary encoder encoding a first active mode function output when the rotatable member is positioned in a first position relative to the housing and the wireless communication is not in the standby mode, the rotary encoder having second active mode function output when the rotatable member is positioned in a second position relative to the housing and the wireless communication device is not in the standby mode.

**(11) Response to Argument**

With respect to appellant's remarks filed 10/30/2003, the responses are as follows:

With respect to independent claims 10 and 18, appellant state that the operation of a call mode by Colonna et al is controlled by activation button or the EM sensor and not by configuration of the housing and when the housing is configured in a manner that prevents location of the device too near the user's ear. Examiner recognizes that appellant should point out the difference in terms of what is claimed and how the cited reference, Colonna et al functions at a certain position of the housing portion instead of pointing to other disclosures or embodiments of the cited reference. Examiner recognizes that the device as taught by Colonna et al only functions in speakerphone mode when the user sets the second housing portion 204 (fig. 3) at a specific speakerphone position (col 15, lines 6-8; col 5, lines 41-45) without the need of activation of a button yet, it is still then set to speakerphone mode via a specific configuration of housing 204. Also, again appellant goes into other disclosures of the cited reference, Colonna et al, that is irrelevant to what is claimed when appellant states that the phone operates in speakerphone mode in which to prevent location of the device near the user's ear since as long as the device is set to speakerphone mode when the first and second housing portions are rotated to a first function angular configuration, what efficiency or benefit the position of the phone does is irrelevant to what is claimed regarding mere configuration of the housing. Moreover, the combination of Colonna et al and Courtecuisse is proper since the examiner substitute the flip cover with a rotating housing portion in order to obtain user's preference and flexibility in choosing a particular desired type of phone equipment's design by circularizing, rotating, flipping or sliding one of the housing element around a pivot point

at a range of available angles and therefore parallel or perpendicular planes without changing the principle of mode-switching of Colonna et al via changing one of housing configuration as is suggested by Colonna et al via a variety of modifications to the device equipment's built structure in which the second housing portion can comprise a slidable section (col 15, lines 15-22), this modification is also suggested by the secondary reference Courtecuisse in which the rotating secondary housing portion 28 (fig. 3) is also modified as a slidable section 32 (fig. 4) and a flipable housing portion 24 (fig. 2).

In another alternative way to interpret the cited reference on the claims 10 and 18 is that the first position is the closed or standby mode; the first function angular configuration that activate the first function is the normal/private mode position.

With respect to dependent claims 11 and 19, appellant alleges that Colonna et al didn't further disclose "... performing second active mode function" when the first and second housing portions are rotated to a second angular configuration. However, since the first angular configuration claimed in claim 10 is speakerphone mode, the second active mode function is the private/normal mode when the first and second housing portions are rotated to a second angular configuration, the private mode position of fig. 2; see col 4, lines 5-15 and col 10, lines 18-23.

With respect to dependent claim 20, appellant alleges that Colonna et al didn't further disclose: "...a physical sensation when the blade is in the respective positions". However, as was cited at col 6, lines 30-33 in the final office action and to further clarify the point col 3, lines 23-27, when the user moves the flip cover or housing element 204 to another position, the physical configuration set by the user is detected by sensor 112

which may represent the physical sensation claimed in this claim.

With respect to claim 21, appellant alleges that Colonna et al fail to disclose: the handset in a first operating mode when the first and second housing portions are rotated to a first angular configuration; the handset in a second operating mode when the first and second housing portions are rotated to a second angular configuration, and the handset in a third operating mode when the first and second housing portions are rotated to a third angular configuration. However, as is clearly disclosed by Colonna et al, there are three different modes at three different positions which may represent the three angular configurations of the claim. Specifically, the handset is in a first operating mode (private/normal mode) when the user moves the housing element 204 to a first angular configuration (fig. 2; col 3, line 60 – col 4, line 5 as is cited in the final office action; and to further clarify col 10, lines 18-23); the handset is in a second operating mode (speakerphone mode) when the user moves the housing element 204 to a second angular configuration (fig. 3; col 5, lines 25-41 as is cited in the final office action and to further clarify col 15, lines 4-9); and the handset is in a third operating mode (standby mode) when the user moves the housing element 204 to a third angular configuration (fig. 4; col 6, lines 35-44) as is cited in the final office action and to further clarify col 10, lines 8-17).

Therefore, given the broadest reasonable interpretation, the teaching of Colonna et al and Courtecuisse clearly reads on the limitations as claimed.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Lana Le

January 26, 2004

Conferees

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